IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

WP(C).No. 23955 of 2007(B)

CMA.73/2007 of I ADDL.DISTRICT COURT, ERNAKULAM
OS.1678/2005 of II ADDL.MUNSIFF COURT,ERNAKULAM

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PETITIONER:

1. SAUDAMINI, W/O. ANIRUDHAN,
   PUTHUKALARI CHIRAYIL, PANANGAD P.O.,
   KOCHI-682 506.

2. SAROJINI, W/O. LATE SUKUMARAN,
   MAROTTIKKAL, PANANGADU P.O., KOCHI-682 506.

3. SURESH, S/O. LATE SUKUMARAN,
   MAROTTIKKAL, PANANGADU P.O., KOCHI-682 506.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY
SMT.THANKOM.G
SRI.E.M.MURUGAN

RESPONDENTS:

1. ARAVINDAKSHAN, S/O. LATE GOPALAN,
   PUTHENPURACKAL, PANANGAD P.O., KOCHI-682 506.

2. AJAY, S/O. LATE SATHYADAS,
   NOW RESIDING AT PUTHENPURACKAL, PANANGADU P.O.,
   KOCHI-682 506.

3. GEETHA, W/O. AJAY,
   NOW RESIDING AT PUTHENPURACKAL, PANANGADU P.O.,
   KOCHI-682 506.

BY ADV. SRI.A.T.ANILKUMAR
SRI.V.SUNIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: A TRUE PHOTOSTAT COPY OF INTERIM ORDER PASSED IN I.A. NO. 3475/2006 IN O.S. NO. 1678/2005 ON THE FILE OF IIND ADDL. MUNSIFF' COURT, ERNAKULAM.

EXT.P2: A TRUE PHOTOSTAT COPY OF THE APPEAL MEMORANDUM IN C.M.A. NO. 73/2007 ON THE FILES OF 1ST ADDL. DISTRICT COURT, ERNAKULAM.

EXT.P3: TRUE PHOTOSTAT COPY OF THE DELAY CONDONATION PETITION C.M.A. NO. 73/2007 ON THE FILES OF DISTRICT COURT, ERNAKULAM.

EXT.P4: TRUE PHOTOSTAT COPY OF I.A. NO. 5817/2007 SUBMITTED BY THE RESPONDENTS.

EXT.P5: TRUE PHOTOSTAT COPY OF THE INTERLOCUTORY APPLICATION FILED AS I.A.N O. 5509/2007.

/True Copy/

P.A to Judge.

M.N. KRISHNAN , J

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W.P.(C) NO. 23955 OF 2007

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Dated this the 16th day of August, 2007.

JUDGMENT

This writ petition is preferred to call for the records relating to Exts.P4 and P5 petition and examine the same and direct the Munsiff Court, Ernakulam to issue order dated 03.08.2007 and to keep in abeyance Ext.P1 till then and also to direct the Munsiff to keep in abeyance Ext. P1 order passed in I.A. No. 3475/2006. An application for temporary injunction was filed and the trial court by its order dated 12.01.2007 granted an interim mandatory injunction. Against that, a civil miscellaneous appeal No. 73/2007 is filed before the District Court, Ernakulam and it is pending. Meanwhile the plaintiffs filed an application for the help of police to implement the order for injunction and that has been allowed by the court. Now, what the writ petitioner wants is to stall the entire things by filing a writ petition of this nature. When an order of interim mandatory injunction is passed and a civil miscellaneous appeal is preferred against that order, the relief which the parties wants can be moved by the party by

making proper application before the appellate court where the matter is pending. It was for the writ petitioner to obtain a stay of operation of the Ext.P1 order in the civil miscellaneous appeal. When there is no stay one cannot blame the plaintiff to have applied for the aid of police to implement the order passed by the competent court. Instead of having recourse to proper legal remedies in the appropriate forum, the writ petitioner wants to jump the jurisdiction and wants this Court under Article 227 to interfere in the matter and for passing an order of blanket stay of the entire proceedings pending before the appropriate courts. That is not the intention of the supervisory jurisdiction under Article 227 of Constitution of India and if the writ petitioner wants to seek remedies he may move the appropriate forum where the matter is pending for the appropriate relief. I do not want to elaborate on this because I do not want to cause any obstruction to him if he is entitled to get an order from the court where the matter is pending. The writ petition is dismissed.

M.N. KRISHNAN, JUDGE.

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